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16 **RECEIVED**

17 UNITED STATES DISTRICT COURT

18 MAY 17 2007

19 NORTHERN DISTRICT OF CALIFORNIA

20 SAN JOSE DIVISION

21 UNITED STATES OF AMERICA,)
 22 Plaintiff,)
 23 v.)
 24 ARIEL ARELLANO DIAZ,)
 25 a/k/a ANTONIO JUAN GOMEZ,)
 26 Defendant.)
 27
 28

29 No. 07-70225 PVT

30 STIPULATION AND [PROPOSED]
 31 ORDER CONTINUING PRELIMINARY
 32 HEARING OR ARRAIGNMENT DATE
 33 AND EXCLUDING TIME

34 SAN JOSE VENUE

35 The undersigned parties respectfully request that the preliminary hearing or arraignment in
 36 the above-referenced case be continued from May 18, 2007 at 1:30 p.m. to June 28, 2007 at 1:30
 37 p.m. before the Honorable Judge Trumbull. The reason for the continuance is that Miguel
 38 Hernandez, who represents the defendant, needs additional time to investigate the case and
 39 consider a pre-indictment resolution that the government has offered him. In addition, the parties
 40 request an exclusion of time under Rule 5 of the Federal Rules of Criminal Procedure and the
 41 Speedy Trial Act from May 18, 2007 to June 28, 2007. The parties agree and stipulate that an
 42 exclusion of time is appropriate based on the defendant's need for effective preparation of

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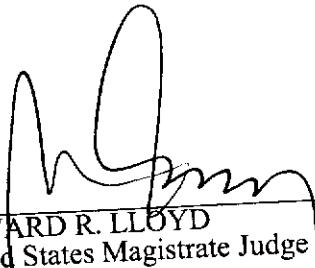
RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE

1 counsel.

2 SO STIPULATED:

SCOTT N. SCHOOLS
United States Attorney3
4 DATED: _____/s/
SUSAN KNIGHT
Assistant United States Attorney5
6 DATED: _____/s/
MIGUEL A. HERNANDEZ
Counsel for the defendant7
8 Accordingly, the Court HEREBY ORDERS that the preliminary hearing or arraignment is
9 continued to June 28, 2007 at 9:30 a.m. before the Honorable Judge Trumbull. Good cause
10 is shown and the continuance is proper under Rule 5 of the Federal Rules of Criminal Procedure
11 and 18 U.S.C. § 3060.12
13 For good cause shown, the Court FURTHER ORDERS that time be excluded under the
14 Speedy Trial Act from May 18, 2007 until June 28, 2007. The Court finds, based on the
15 aforementioned reasons, that the ends of justice served by granting the requested continuance
16 outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant
17 the requested continuance would deny defense counsel reasonable time necessary for effective
18 preparation, taking into account the exercise of due diligence, and would result in a miscarriage
19 of justice. The Court therefore concludes that this exclusion of time should be made under 18
20 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

21 SO ORDERED.

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23 DATED: 5/18/07

 HOWARD R. LLOYD
United States Magistrate Judge
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